

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2125 OF 2006

Jagdeep Shah

... Petitioner

 $V/S.$

Ami Shah & Ors.

... Respondents

Mr. J.P. Sen i/b. Desai & Diwanji for the petitioner.
Respondent No. 1 in person.

**CORAM : F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATED : 4th September, 2006**

P.C.

. In proceedings before the Family Court, consent terms came to be filed whereby petitioner and respondent No. 1 agreed for divorce by mutual consent. This order was passed on 07.12.2005. On 31.01.2006, respondent No. 1 made an application pointing out that on the day the consent terms were filed, she was not in a position to comprehend the exact terms, that has been allowed by order dated 19th June, 2006. By the order it has been held that the consent terms dated 16th December, 2005 may be ignored. In other words setting aside the decree for divorce by mutual consent. Learned counsel points out Section 19 of the Family Courts Act, 1984. That speaks about the maintainability of an appeal from a judgment or order not being an interlocutory order of

the Family Court to the High Court. In the instant case, if the argument is accepted the order will have to be recalled, which would result in disposal of the proceedings before the Family Court. It cannot therefore be said to be an interlocutory order.

2. Considering the above, the learned counsel for the petitioner seeks leave to withdraw the petition with liberty to file appeal under Family Courts Act. Petition is dismissed as withdrawn with liberty as prayed for.

3. It will be open to the petitioner to apply for extension of time for the period when the proceeding is pending before the Court.

4. With the above observations, petition stands disposed of.

[F.I. REBELLO, J.]

[ANOO V. MOHTA, J.]